IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2793 OF 2005

Aurangabad Cables Ltd. ...Petitioner
vs.
Union of India & anr. ...Respondents

Ms Soma Singh i/b Mr.Vivek Sharma for the petitioner
Mr.V.R.Dhond i/b M/s.Punjabi & Co. for Respondent No.2
Ms N.V.Masurkar with Mr.D.A.Dube for Respondent No.1

CORAM: SMT.RANJANA DESAI & A.S.OKA,JJ.
DATE : DECEMBER 2,2005

P.C.:

1. The challenge in this petition is to the notice dated 16th November 2005 issued under sub section (4) of Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the said Act for short).

2. We have heard the learned counsel appearing for the petitioner. The main grievance of the petitioner is that the reasons for not accepting the petitioner's objections have not been communicated to the petitioner within a period of one week of receipt of the objections. Reliance is placed by the learned counsel for the petitioner on the decision of the Supreme court in Mardia Chemicals Ltd. & others vs. Union of India & Ors., (2004) 4 S.C.C. 311 and the decision of Division Bench of this Court in M.R.Gawai Enterprises vs. Vidarbha Urban Co-operative Bank Ltd. & Anr., 2005 (1)

Bom.C.R. 276. It is true that secured creditor has to communicate the reasons for non acceptance of objections to the borrower within the time limit prescribed under sub-section (3-A) of section 13 of the said Act. It appears that in the present case the reasons have not been communicated. The learned counsel for the respondents states that the reasons will be communicated by Monday 5th December 2005. The learned counsel for the petitioner prays that till that time action of taking possession be stayed. We are unable to do so. On a plain reading of the judgment of the Supreme Court in Mardia Chemicals's case (supra) it appears to us that though the reasons are to be communicated to the borrower that does not give him any right of appeal. The right of the borrower to appeal arises only after possession is taken over. Hence we cannot grant stay to the taking over of possession. All the contentions raised in the petition can be raised by the petitioner in the appeal which he may prefer under Section 17 of the said Act. Petition is disposed of accordingly.

(SMT.RANJANA DESAI,J.)

(ABHAY S.OKA,J.)